

Section II (Remarks)

A. Summary of Amendment to the Claims

In this response, claims 17-19 have been canceled and new claims 49-62 have been added.

The newly added claims 49-62 are fully consistent with and supported by the originally-filed disclosure of this application, e.g., at page 6, paragraph [0026] to page 8, paragraph [0028]; page 9, paragraph [0033] to page 10, paragraph [0038]; and Tables 4 and 5 at pages 14-16.

No new matter within the meaning of 35 U.S.C. §132(a) has been introduced by the new claims.

B. Rejection of Claims Under 35 U.S.C. § 103

In the October 17, 2007 Office Action, the examiner rejected claims 17-19 under 35 U.S.C. 103(a) as being unpatentable over Huard, et al. (U.S. Patent 6,485,733; hereinafter ‘Huard’) in view of Quan, et al. (U.S. Patent 6,180,133; hereinafter ‘Quan’) in view of Durr, et al. (U.S. Patent 5,997,889; hereinafter ‘Durr’) in view of Hill, et al. (U.S. Patent 4,233,295; hereinafter ‘Hill’) and in view of McNulty, et al. (U.S. Publication 2005/0048105; herein after ‘McNulty’) in view of Nagal (1977).

Such rejection has been rendered moot by the cancellation of claims 17-19 herein.

The claims as now pending include independent claims 49 and 54. Such claims and the dependent claims dependent thereunder, are patentably distinguished over the cited references.

Independent claim 49 recites:

49. A dermatological composition, comprising:

water;

from 20% to 50% urea;

from 2% to 15% sunflower oil; and

from 0.5% to 10% shea butter;

wherein percentages of the urea, sunflower oil and shea butter are by weight, based on total weight of the composition; and

wherein urea and water in combination constitute a major portion of the composition.

Such composition fails to be disclosed in or to be derivable from the cited references. Huard teaches a composition wherein sunflower oil is present in greater concentration than urea, opposite to the composition of applicant's invention as claimed in claim 49. Further, Huard fails to teach or provide any derivative basis for the use of shea butter in the composition disclosed in such reference.

The examiner in the rejection of the claims previously pending in the application cited Durr for teaching of shea butter, but Durr teaches an entirely different composition than is disclosed in Huard. The Durr formulations are either devoid of water, or if water is used at all, it is added "in an amount of up to 5% by volume of the total volume of product" (column 4, lines 27-28 of Durr). Huard, by contrast, teaches a composition in which the largest concentration ingredient is water. Based on such disparate character of the respective compositions alone, one would avoid any attempted synthesis of the two references. The other references cited in the October 17, 2007 Office Action were cited for teaching of ingredients not recited in claim 49. Claim 49 and claims 50-53 dependent thereunder are therefore patentably demarcated over the cited prior art.

Claim 54 recites:

54. A dermatological composition consisting of water; urea; disodium EDTA; sodium polyacrylate; stearic acid; glyceryl stearate; soybean sterol; shea butter; sunflower oil; butylated hydroxytoluene; and triethanolamine.

Such formulation is not disclosed in or derivable from any of the cited references. Accordingly, claim 54 and claims 55-62 dependent thereunder are fully patentably distinguished over the cited art.

No added claims fee is due, inasmuch as the number of added claims does not increase the number of pending claims beyond the number for which payment was previously made.

CONCLUSION

Based on the foregoing, applicants' pending claims 49-62 are patentably distinguished over the art, and in form and condition for allowance. The examiner is requested to favorably consider

the foregoing, and to responsively issue a Notice of Allowance. If any issues require further resolution, the examiner is requested to contact the undersigned attorney at (919) 419-9350 to discuss same.

Respectfully submitted,

/steven j. hultquist/

Steven J. Hultquist
Reg. No. 28,021
Attorney for Applicants

**INTELLECTUAL PROPERTY/
TECHNOLOGY LAW**
Phone: (919) 419-9350
Fax: (919) 419-9354
Attorney File No.: 4237-101

<p>The USPTO is hereby authorized to charge any deficiency or credit any overpayment of fees properly payable for this document to Deposit Account No. 08-3284</p>
